LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6803 | **NOTE PREPARED:** Feb 26, 2008
BILL NUMBER: SB 226 | **BILL AMENDED:** Feb 26, 2008

SUBJECT: Disposal of Municipal Utility Property.

FIRST AUTHOR: Sen. Hershman | **BILL STATUS:** 2nd Reading - 2nd House
FIRST SPONSOR: Rep. Welch

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State & Local
DEDICATED
FEDERAL

Summary of Legislation: (Amended) The bill provides that a municipality that seeks to sell or dispose of nonsurplus municipally owned utility property must adopt an ordinance appointing three Indiana residents to serve as appraisers, as follows: (1) One disinterested person who is a licensed engineer. (2) One disinterested persons who is a licensed appraiser. (3) One disinterested person who is either a licensed engineer or a licensed appraiser. (Current law provides for the appointment of one disinterested freeholder who is a resident of the municipality and two disinterested licensed appraisers). The bill eliminates the requirement that one of the licensed appraisers must reside not more than 50 miles from the property.

The bill provides that if the municipality decides to proceed with the sale or disposition after the return of the appraisal, the municipality shall, not later than 45 days after the return of the appraisal, hold a public hearing to do the following: (1) Review and explain the appraisal. (2) Receive public comment on the proposed sale or disposition. (3) Adopt an ordinance for the sale or disposition. (Current law: (1) requires the municipality to publish notice of a hearing on the ordinance not later than 15 days after the return of the appraisal; and (2) prohibits the municipality from holding the hearing until 30 days after the notice is given.)

The bill provides that the municipality is not required to adopt an ordinance if, after the hearing, the municipality determines it is not in the interest of the municipality to proceed with the sale or disposition. The bill allows a municipality to proceed to sell or dispose of the property if: (1) the municipality adopts an ordinance providing for the sale or disposition; and (2) a petition opposing the sale or disposition is not filed within 30 days after the notice of hearing. (Current law provides that a municipality shall proceed to sell or dispose of the property if a petition is not filed within the 30 day period.)

The bill provides that a municipal utility may not issue bonds, notes, or other obligations without the

approval of the utility regulatory commission (IURC) if the bonds, notes, or other obligations are payable more than 12 months after their execution. (Current law requires the IURC to approve any bond issue of a municipal utility.)

The bill provides that a landlord that distributes water or sewage disposal service from a public or municipally owned utility to one or more dwelling units is not a public utility solely by reason of engaging in such activity if: (1) the landlord bills tenants separately from rent for the services distributed; (2) the total charge for the services is not more than what the landlord paid the utility for the same services, less the landlord's own use; and (3) the landlord provides the tenant with a written disclosure that meets specified requirements. The bill provides that a complaint may be filed with the utility regulatory commission (IURC) alleging that a landlord is acting as a public utility. The bill requires the IURC to: (1) consider the complaint; and (2) if the IURC considers it to be necessary, enter an order requiring a billing adjustment.

Effective Date: (Amended) Upon Passage; July 1, 2008.

Explanation of State Expenditures: (Revised) This bill could have an administrative impact on the IURC insofar as it will require the Commission to consider complaints brought forth by tenants and if the IURC determines the complaints to be necessary, enter an order requiring a billing adjustment. While the provisions above could increase the costs of the IURC, it is presumed that any increase will be covered using existing resources or using the funding mechanism currently provided for in law.

Background: The operating budget of the IURC is funded by regulated utilities operating in Indiana. The IURC determines the rate at which to bill the utilities based on the agency's budget, less reversions, divided by the total amount of gross intra-state operating revenue received by the regulated utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.15% of their gross intra-state operating revenues to fund the IURC.

Explanation of State Revenues:

Explanation of Local Expenditures: *Summary-* The bill requires that a municipality seeking to sell or dispose of nonsurplus municipally owned utility property appoint three Indiana residents to serve as appraisers. One of the appointees must be a licensed engineer, one must be a licensed appraiser, and one must be a disinterested person that is either a licensed engineer *or* a licensed appraiser. Current law provides for the appointment of one disinterested freeholder who is a resident of the municipality and two disinterested licensed appraisers. The increase in expenditures would depend on the wages of the licensed engineer, the price of which may vary by locality.

Background- In regard to the construction or acquisition of utility property, Indiana Code 8-1.5-2-8 provides that before a municipality proposes to construct or acquire a utility, the municipality may appropriate out of its general fund an amount not exceeding 5% of the total estimated cost of constructing or acquiring the utility, as necessary to pay the expenses of a preliminary investigation, surveys, plans, specifications, and appraisals, including engineering and legal expenses. According to the Bureau of Labor Statistics, in 2006 the average hourly wage of licensed engineers and licensed appraisers were $28.53 and $20.74, respectively.

Explanation of Local Revenues: The proceeds of any sale under the provisions of this bill are to be paid into the treasury of the municipality making the sale and become part of the municipality's general fund. The fiscal impact is indeterminable and would depend upon the volume of property sold and the selling price of each property, all of which would vary by locality.

State Agencies Affected: IURC.

Local Agencies Affected: Municipalities.

Information Sources: Bureau of Labor Statistics, 2006.

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